

1-1 By: Watson, Ellis S.B. No. 1572
1-2 (In the Senate - Filed March 11, 2011; March 23, 2011, read
1-3 first time and referred to Committee on Transportation and Homeland
1-4 Security; May 9, 2011, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 8, Nays 0;
1-6 May 9, 2011, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1572 By: Watson

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the operations and monitoring of fusion centers in this
1-11 state.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 421.001, Government Code, is amended by
1-14 adding Subdivisions (2-a), (4), and (5) to read as follows:

1-15 (2-a) "Fusion center" means a state or regional
1-16 multidisciplinary collaborative effort of two or more agencies that
1-17 combine resources, expertise, and intelligence and other
1-18 information with the goal of maximizing the ability of those
1-19 agencies to detect, prevent, and respond to criminal activities or
1-20 to otherwise engage in homeland security activities.

1-21 (4) "Intelligence" means the product of systematic
1-22 gathering, evaluation, and synthesis of raw data on individuals or
1-23 activities suspected of being, or known to be, criminal in nature.

1-24 (5) "Recognized fusion center" means a fusion center
1-25 operating in this state that has been recognized by the homeland
1-26 security director as meeting the fusion center mission identified
1-27 in the governor's homeland security strategy and in the Department
1-28 of Homeland Security State, Local, and Regional Fusion Center
1-29 Initiative established under 6 U.S.C. Section 124h.

1-30 SECTION 2. Subsection (b), Section 421.002, Government
1-31 Code, is amended to read as follows:

1-32 (b) The governor's homeland security strategy shall
1-33 coordinate homeland security activities among and between local,
1-34 state, and federal agencies and the private sector and must include
1-35 specific plans for:

1-36 (1) intelligence gathering and analysis;

1-37 (2) information sharing;

1-38 (3) reducing the state's vulnerability to homeland
1-39 security emergencies;

1-40 (4) protecting critical infrastructure;

1-41 (5) protecting the state's international border,
1-42 ports, and airports;

1-43 (6) detecting, deterring, and defending against
1-44 terrorism, including cyber-terrorism and biological, chemical, and
1-45 nuclear terrorism;

1-46 (7) positioning equipment, technology, and personnel
1-47 to improve the state's ability to respond to a homeland security
1-48 emergency;

1-49 (8) directing the Texas Fusion [~~Infrastructure~~
1-50 ~~Protection Communications~~] Center and giving the center certain
1-51 forms of authority to implement the governor's homeland security
1-52 strategy; and

1-53 (9) using technological resources to:

1-54 (A) facilitate the interoperability of
1-55 government technological resources, including data, networks, and
1-56 applications;

1-57 (B) coordinate the warning and alert systems of
1-58 state and local agencies;

1-59 (C) incorporate multidisciplinary approaches to
1-60 homeland security; and

1-61 (D) improve the security of governmental and
1-62 private sector information technology and information resources.

1-63 SECTION 3. Section 421.003, Government Code, is amended to

2-1 read as follows:

2-2 Sec. 421.003. COLLECTION, ANALYSIS, AND DISSEMINATION OF
2-3 [CRIMINAL] INTELLIGENCE [INFORMATION]. The Department of Public
2-4 Safety of the State of Texas is[+]

2-5 [~~(1)~~] the repository in this state for the collection
2-6 of multijurisdictional [~~criminal~~] intelligence [~~information that~~
2-7 ~~is about terrorist activities or otherwise related to homeland~~
2-8 ~~security activities,~~] and

2-9 [(2)] the state agency that has primary responsibility
2-10 to analyze and disseminate that intelligence [information].

2-11 SECTION 4. Section 421.071, Government Code, is amended to
2-12 read as follows:

2-13 Sec. 421.071. COOPERATION AND ASSISTANCE. A state or local
2-14 agency that performs a homeland security activity or a
2-15 nongovernmental entity that contracts with a state or local agency
2-16 to perform a homeland security activity shall cooperate with and
2-17 assist the office of the governor, the Homeland Security Council,
2-18 the Texas Fusion [~~Infrastructure Protection Communications~~]
2-19 Center, and the National Infrastructure Protection Center in the
2-20 performance of their duties under this chapter and other state or
2-21 federal law.

2-22 SECTION 5. The heading to Subchapter E, Chapter 421,
2-23 Government Code, is amended to read as follows:

2-24 SUBCHAPTER E. TEXAS FUSION CENTER AND OTHER FUSION CENTERS
2-25 OPERATING IN THIS STATE

2-26 SECTION 6. Subsections (a) and (b), Section 421.082,
2-27 Government Code, are amended to read as follows:

2-28 (a) The Texas Fusion Center [~~center~~] shall serve as the
2-29 state's primary entity for the planning, coordination, and
2-30 integration of government communications capabilities to help
2-31 implement the governor's homeland security strategy and ensure an
2-32 effective response in the event of a homeland security emergency.

2-33 (b) The center's duties include:
2-34 (1) promotion of emergency preparedness;
2-35 (2) receipt and analysis of information, assessment of
2-36 threats, and issuance of public warnings related to homeland
2-37 security emergencies; [~~and~~]

2-38 (3) authorization and facilitation of cooperative
2-39 efforts related to emergency response and recovery efforts in the
2-40 event of a homeland security emergency; and

2-41 (4) making recommendations to the Department of Public
2-42 Safety regarding the monitoring of fusion centers operating in this
2-43 state and regarding the functions of the Texas Fusion Center Policy
2-44 Council created under Section 421.083.

2-45 SECTION 7. Subchapter E, Chapter 421, Government Code, is
2-46 amended by adding Sections 421.083, 421.084, and 421.085 to read as
2-47 follows:

2-48 Sec. 421.083. TEXAS FUSION CENTER POLICY COUNCIL. (a) The
2-49 Department of Public Safety shall create the Texas Fusion Center
2-50 Policy Council and the bylaws for the council to assist the
2-51 department in monitoring fusion center activities in this state.

2-52 (b) The policy council is composed of one executive
2-53 representative from each recognized fusion center operating in this
2-54 state.

2-55 (c) The policy council shall:

2-56 (1) develop and disseminate strategies to:
2-57 (A) facilitate the implementation of applicable
2-58 federal standards and programs on a statewide basis by each fusion
2-59 center operating in this state;

2-60 (B) expand and enhance the statewide
2-61 intelligence capacity to reduce the threat of terrorism and
2-62 criminal enterprises; and

2-63 (C) continuously review critical issues
2-64 pertaining to homeland security activities;

2-65 (2) establish a privacy advisory group, with at least
2-66 one member who is a privacy advocate, to advise the policy council
2-67 and to meet at the direction of the policy council; and

2-68 (3) recommend best practices for each fusion center
2-69 operating in this state, including:

3-1 (A) best practices to ensure that the center
3-2 adheres to 28 C.F.R. Part 23 and any other state or federal law
3-3 designed to protect privacy and the other legal rights of
3-4 individuals; and

3-5 (B) best practices for the smooth exchange of
3-6 information among all fusion centers operating in this state.

3-7 Sec. 421.084. FUSION CENTERS OPERATING IN THIS STATE:
3-8 RULES AND MONITORING. (a) After considering the recommendations
3-9 of the Texas Fusion Center under Section 421.082(b)(4) and the
3-10 Texas Fusion Center Policy Council under Section 421.083(c)(3), the
3-11 Department of Public Safety shall adopt rules to govern the
3-12 operations of fusion centers in this state, including guidelines
3-13 to:

3-14 (1) for any fusion center operating in this state,
3-15 establish a common concept of operations to provide clear baseline
3-16 standards for each aspect of the center's activities;

3-17 (2) inform and define the monitoring of those
3-18 activities by the Texas Fusion Center Policy Council; and

3-19 (3) ensure that any fusion center operating in this
3-20 state adheres to state and federal laws designed to protect privacy
3-21 and the other legal rights of individuals, including 28 C.F.R. Part
3-22 23 and any other law that provides clear standards for the treatment
3-23 of intelligence or for the collection and storage of noncriminal
3-24 information, personally identifiable information, or protected
3-25 health information.

3-26 (b) The Department of Public Safety may require that a
3-27 fusion center audited under applicable department rules pay any
3-28 costs incurred by the policy council in relation to the audit.

3-29 (c) A member of the policy council may not receive
3-30 compensation but is entitled to reimbursement for the member's
3-31 travel expenses as provided by Chapter 660 and the General
3-32 Appropriations Act.

3-33 (d) A fusion center may not receive state grant money if the
3-34 center adopts a rule, order, ordinance, or policy under which the
3-35 center fails or refuses to comply with rules adopted by the
3-36 Department of Public Safety under Subsection (a), beginning with
3-37 the first state fiscal year occurring after the center adopts the
3-38 rule, order, ordinance, or policy.

3-39 Sec. 421.085. REPORT. The Texas Fusion Center Policy
3-40 Council annually shall submit to the governor and to each house of
3-41 the legislature a report that contains, with respect to the
3-42 preceding year:

3-43 (1) the council's progress in developing and
3-44 coordinating the statewide fusion effort and intelligence network
3-45 described by the governor's homeland security strategy;

3-46 (2) the progress made by fusion centers operating in
3-47 this state in meeting the fusion center guidelines developed under
3-48 the Department of Homeland Security State, Local, and Regional
3-49 Fusion Center Initiative established under 6 U.S.C. Section 124h;
3-50 and

3-51 (3) a summary of fusion center audits or reviews
3-52 conducted under applicable rules adopted by the Department of
3-53 Public Safety.

3-54 SECTION 8. This Act takes effect immediately if it receives
3-55 a vote of two-thirds of all the members elected to each house, as
3-56 provided by Section 39, Article III, Texas Constitution. If this
3-57 Act does not receive the vote necessary for immediate effect, this
3-58 Act takes effect September 1, 2011.

3-59 * * * * *